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Attorneys for Defendants Omar Qazi
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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

AARON GREENSPAN,

Plaintiff,

v.

OMAR QAZI, et al.,

Defendants.

Case No. 3:20-cv-03426-JD

**DEFENDANTS OMAR QAZI AND
SMICK ENTERPRISES, INC.'S
OPPOSITION TO PLAINTIFF'S
APPLICATION FOR ENTRY OF
DEFAULT**

1 Plaintiff's application for default on the Amended Complaint should be denied
2 because Defendants were not properly served with the Amended Complaint; and
3 Defendants' motion to lift default as to the original Complaint is still pending.

4 Pursuant to Federal Rule of Civil Procedure ("Rule") 5(a)(2), full service must be
5 made under Rule 4 where, as here, a defendant is in default and the plaintiff asserts a
6 new claim for relief against such a party. (See also Dkt. No. 44, 3:26–4:8.) Thus, Plaintiff's
7 service by mail under Rule 5(b)(2)(C) is insufficient; in addition, Plaintiff mailed the
8 Amended Complaint to an incorrect address for Defendants. (Dkt. No. 44-1, ¶2.)
9 Defendants' counsel had offered to stipulate with Plaintiff to lift the default on the original
10 Complaint and to accept service of the Amended Complaint, but Plaintiff responded by
11 stating, "No I do not stipulate to anything." (Dkt. No. 44-2, ¶2.) Despite communicating
12 with Plaintiff about this matter, Defendants did not receive any prior notice of Plaintiff's
13 present application for default.

14
15 Respectfully Submitted,

16 DATED: July 21, 2020

KRONENBERGER ROSENFELD, LLP

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18 By: s/ Karl S. Kronenberger
Karl S. Kronenberger

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20 Attorneys for Defendants Omar Qazi and
Smick Enterprises, Inc.